IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 8677 of 2004(G)

AGAINST THE ORDER DATED 14/01/2004 IN IA.NO.16/2004 IN
OS.731/1998 of MUNSIFF COURT, KARUNAGAPPALLY
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PETITIONERS:
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1. NARAYANA PILLAI RAMAKRISHNAN NAIR,
SREENILAYATHU, CHANDROTHIL ROAD, EDAPPALLY
PADIVATTOM, KOCHI FROM LEKSHMI BHAVANAM,
MEKKADU MURI, PANMANA VILLAGE.

ADDL 2. RAJAMMA PILLAI, W/O. LATE RAMAKRISHNAN NAIR,
SREENILAYATHU, CHANDROTHIL ROAD, EDAPPALLY
PADIVATTOM, KOCHI.

ADDL. 3. SHALINI NAIR R., D/O.LATE RAMAKRISHNAN NAIR,
SREENILAYATHU, CHANDROTHIL ROAD, EDAPPALLY
PADIVATTOM, KOCHI.

ADDL 4. SUNIL R. NAIR, S/O. LATE RAMAKRISHNAN NAIR,
SREENILAYATHU, CHANDROTHIL ROAD, EDAPPALLY
PADIVATTOM, KOCHI.

ADDL 5. SUJITH NAIR R., S/O. LATE RAMAKRISHNAN NAIR,
SREENILAYATHU, CHANDROTHIL ROAD, EDAPPALLY
PADIVATTOM, KOCHI.
(ADDL. P2 TO P5 IMPLEADED AS PER ORDER DT.5.6.07 IN IA NO.
10022 of 2005)

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

RESPONDENTS:
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1. JANARDHANAN PILLAI ARAVINDAN,
DOCTOR ARAVIND HOSPITAL, THATTASSERI, CHAVARA
FROM PARAMESWARA VILASAM, BUNGLOW, NEERAVIL CHERI,
THRIKKADAVOOR VILLAGE.

2. PARUKUTTY, KOVILAKATHU VEEDU,
KULANGARABHAGAM MURI, CHAVARA VILLAGE.

3. VISHALAM, KOVILAKATHU VEEDU,
KULANGARABHAGOM MURI, CHAVARA VILLAGE.

4. SOMASEKHARAN PILLAI, CHAKODIYIL
CHERUSSERIBHAGOM MURI, CHAVARA VILLAGE.

5. ABDUL MAJEED, KALEELIL KIZHAKKATHIL
VADUTHALA MURI, PANMANA VILLAGE.

6. BALAKRISHNA PILLAI, MULLASSERIL
THARAYIL CHERUSSERIBHAGOM MURI, CHAVARA VILLAGE

7. GOPINATHAN PILLAI, PUTHENVEEDU,
KULANGARABHAGOM MURI, CHAVARA VILLAGE.

BY ADV. SRI.S.GOPAKUMARAN NAIR
SRI.M.P.MADHAVANKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 8677 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE OCPY OF COMMISSION APPLICATION DT.21.01.2002 IN OS NO.731 OF 1998.

EXT.P2 : TRUE COPY OF REVIEW APPLICATION DT.03.01.2004 IN OS NO.731 OF 1998.

EXT.P3 : TRUE COPY OF SURVEY PLAN OBTAINED FROM THE OFFICE OF CENTRAL SUVERY OFFICE, TRIVANDRUM.

EXT.P4 : TRUE COPY OF ORDER DT.14.01.2004 PASSED BY MUNSIFF'S COURT, KARUNAGAPPALLY IN IA NO.16 OF 2004 IN OS 731 OF 1998.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 8677 OF 2004
and
IA No. 10022 OF 2005

Dated this the 5th day of June, 2007

JUDGMENT

Mr.Sadchith Kurup submits that since the legal heirs of the deceased writ petitioner themselves came forward seeking their impleadment, it was unnecessary to issue notice to them. Since nobody disputes the fact that the petitioners in the impleadment application are the legal heirs of the deceased petitioner, I find force in the above submission. The order of notice dt.28.07.05 is reviewed. IA No.10022 of 2005 will stand allowed. The petitioners in the IA are impleaded as petitioners 2 to 5 in the writ petition. Registry will carry out corrections in the cause title. Heard both sides.

2. Ext.P4 order passed by the learned Munsiff in a suit filed by the petitioner-plaintiff is under challenge. Under Ext.P4 the court below dismissed an application submitted by the petitioner for a measurement of the properties on the basis of the old survey plan. The learned Munsiff has assigned two reasons for Ext.P4 decision. First reason is that the copy of the plan submitted is an unauthenticated copy of on the basis of which the commissioner cannot be asked to conduct measurement. The second reason is that the petitioner already

submitted that the properties need be surveyed on the basis of the approved re-survey plan alone. If the petitioner contends that he did not submit that the properties need be surveyed on the basis of the re-survey plan, it is for him to move the learned Munsiff himself by a petition for review. Mr.Kurup would place before me copy of the old survey plan which is referred to by the learned Munsiff as Ext.P3. The learned counsel submitted that it is not correct to say that Ext.P3 is an unauthenticated plan. According to him he was able to obtain Ext.P3 from the custodian of its original on the basis of a court diary. The submission that Ext.P3 is not an unauthenticated copy, but is a copy duly certified as true copy by the Technical Assistant in the Central Survey office, custodian of the original, appears to be correct.

Under these circumstances, I dispose of the Writ Petition permitting the petitioner to file an application for review of Ext.P1 order. If such an application is received by the learned Munsiff within four weeks from today, the learned Munsiff will hear both sides and take a decision in accordance with law in the light of what is stated herein regarding the copy of the plan.

PIUS C. KURIAKOSE, JUDGE

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